

***City of Falcon Heights***  
**Regular Meeting of the City Council**  
**City Hall**  
**2077 W. Larpenteur Avenue**

**November 27, 1996**

**A G E N D A**

- A. CALL TO ORDER: 7 p.m.
- B. ATTENDANCE: GEHRZ \_\_\_ GIBSON TALBOT \_\_\_ HUSTAD \_\_\_  
JACOBS \_\_\_ KUETTEL \_\_\_ HOYT \_\_\_ ASLESON \_\_\_ ATTORNEY \_\_\_  
ENGINEER \_\_\_
- C. COMMUNITY FORUM
- D. APPROVAL OF MINUTES: October 23, 1996  
November 13, 1996
- E. PUBLIC HEARING: None
- F. CONSENT AGENDA:
  - 1. Disbursements
    - a. General disbursements through 11/21/96, \$90,557.69
    - b. Payroll, 11/1/96 to 11/15/96, \$11,543.05
  - 2. Licenses
  - 3. Fund Transfer
  - 4. Request of use of Community Park shelter and site for Lions Club holiday tree sales
- G. POLICY AGENDA:
  - 1. An update on the proposed 1997 Lindig Street improvements
  - 2. Consideration of a Joint and Cooperative Agreement for the Middle Mississippi River Watershed Management Organization
  - 3. Public hearing and consideration of a proposed amendment to Chapter 9 Part 2.07 of the zoning code related to placement of telecommunications antennas
- H. INFORMATION AND ANNOUNCEMENTS:
- I. ADJOURN

***City of Falcon Heights***  
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**2077 W. Larpenteur Avenue**

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- B. ATTENDANCE: GEHRZ \_\_\_ GIBSON TALBOT \_\_\_ HUSTAD \_\_\_  
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ENGINEER \_\_\_
- C. COMMUNITY FORUM
- D. APPROVAL OF MINUTES: October 23, 1996 (Tab #1)  
November 13, 1996
- E. PUBLIC HEARING: None
- F. CONSENT AGENDA:
  - 1. Disbursements (Tab #2)
    - a. General disbursements through 11/21/96, \$90,557.69
    - b. Payroll, 11/1/96 to 11/15/96, \$11,543.05
  - 2. Licenses (Tab #3)
  - 3. Fund Transfer (Tab #4)
  - 4. Request of use of Community Park shelter and site for Lions Club holiday tree sales (Tab #5)
- G. POLICY AGENDA:
  - 1. An update on the proposed 1997 Lindig Street improvements (Tab #6)
  - 2. Consideration of a Joint and Cooperative Agreement for the Middle Mississippi River Watershed Management Organization (Tab #7)
  - 3. Public hearing and consideration of a proposed amendment to Chapter 9 Part 2.07 of the zoning code related to placement of telecommunications antennas (Tab #8)
- H. INFORMATION AND ANNOUNCEMENTS:
- I. ADJOURN

**CITY OF FALCON HEIGHTS  
REGULAR CITY COUNCIL MEETING  
MINUTES OF OCTOBER 23, 1996**

**DRAFT**

Mayor Gehrz convened the meeting at 7:00 p.m.

**PRESENT**

Gehrz, Gibson Talbot, Hustad, and Jacobs. Also present were Hoyt, Asleson, and Maurer.

**ABSENT**

Kuettel.

**MINUTES OF OCTOBER 9, 1996**

Minutes were approved as presented.

**CONSENT AGENDA APPROVED**

Mayor Gehrz asked that discussion regarding a materials holding facility be pulled from the consent agenda and made a policy item. Motion was made by Councilmember Gibson Talbot to approve the following amended consent agenda. Motion passed unanimously.

1. Disbursements
2. Resolution authorizing the city clerk to apply for SCORE recycling grant funds from Ramsey County
3. Approval of election judges

**POLICY AGENDA**

**REQUEST FOR A CONDITIONAL USE PERMIT FOR THE OPERATION OF A  
SECONDHAND GOODS STORE AT 1579 N. HAMLIN AVENUE, CHAPTER 9-8.01  
SUBD. 3 (d)**

Administrator Hoyt reported that this conditional use permit request had been reviewed by the planning commission and that the commission had unanimously recommended approval with the conditions as noted in the resolution. Property owner Dirk Bordsen and proprietor Sandy Roth were present to answer questions.

Motion was made by Councilmember Hustad to approve Resolution 96-18, approving a conditional use permit for a secondhand goods store. Motion passed unanimously.

**CONSIDERATION OF A MEMORANDUM OF UNDERSTANDING WITH THE ST. PAUL  
WATER UTILITY REGARDING TRANSFER OF THE CITY'S WATER SYSTEM**

Administrator Hoyt presented a memorandum of understanding from the St. Paul Water Utility regarding transfer of the city's water system. Presently, the city owns the water system with the Water Utility maintaining it and providing water at retail rate (120% of St. Paul's rate.) The Water Utility is proposing that the city transfer ownership of the system to them. This would give the Water Utility a long-term assurance of having Falcon Heights as water customers. The benefits to Falcon Heights include: a) by

2003, Falcon Heights residents would pay the same rate for water as residents of the City of St. Paul; b) St. Paul will continue to maintain the system and will begin paying for capital improvements; and c) the city gets suburban representation on the Water Utility Board. The memorandum of understanding is not a final agreement to transfer, but would precede a formal agreement.

After discussion, a motion was made by Councilmember Hustad to sign the memorandum of understanding with the St. Paul Water Utility. Motion passed unanimously.

#### **CONSIDERATION OF A RESOLUTION ELECTING TO CONTINUE PARTICIPATION IN THE METROPOLITAN LIVABLE COMMUNITIES ACT**

Administrator Hoyt reported that this resolution is similar to the one passed by the council for 1996. The city meets or nearly meets each of the affordable housing benchmarks already and there would be no costs associated with participation. The city's participation would demonstrate the city's recognition of the importance of maintaining the condition of affordable housing.

Motion was made by Councilmember Gibson Talbot to approve Resolution 96-17, continuing participation in the Metropolitan Livable Communities Act. Motion passed unanimously.

#### **AUTHORIZATION TO ENTER INTO A CONTRACT FOR RECYCLING SERVICES**

Administrative Assistant Asleson reported that, per review by the Solid Waste Commission and direction from the city council, staff had contacted officials at E-Z Recycling regarding signing a new contract for recycling services. There would be no changes in the content of the new contract other than minor clarifications. E-Z is willing to sign a three year contract, with a 1997 rate of \$1.42/household/month, with inflationary adjustments in 1998 and 1999. This is an excellent rate for the service received and E-Z Recycling has provided good service to the city in the past.

Motion was made by Councilmember Jacobs to authorize the Mayor and Administrator to enter into an agreement for recycling collection with E-Z Recycling through February 28, 2000. Motion passed unanimously.

#### **PROPOSAL TO CONSTRUCT A MATERIAL HOLDING FACILITY BEHIND THE PUBLIC WORKS GARAGE**

The council and staff reviewed the proposals received to construct the holding facility. There was concern that the cost was too high. After discussion, the council directed the administrator to proceed with the construction of the facility with the understanding the alternative construction techniques be investigated to reduce costs.

### **CITY INFORMATION AND ANNOUNCEMENTS**

Councilmember Hustad reported that the Keeping Connected Task Force was completing the neighborhood directories and considering other projects.

Councilmember Gibson Talbot reported that the Human Rights Commission would be meeting in November.

Mayor Gehrz reported that the Pioneer Press may be contacting councilmembers, as they are doing a story on intergenerational issues in the area.

Administrator Hoyt reported on the success of the Fire Prevention Open House. She also thanked Dave Tretsven, Vince Wright, and Lauderdale Public Works staff for their efforts in light of the temporary short staffing situation in the Public Works Department.

### **ADJOURNMENT**

The meeting adjourned to a workshop at 8:40 p.m.

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Susan L. Gehrz, Mayor

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Carla Asleson  
Recording Secretary

CITY OF FALCON HEIGHTS  
REGULAR CITY COUNCIL MEETING  
MINUTES OF NOVEMBER 13, 1996

**DRAFT**

Mayor Gehrz convened the meeting at 7:00 p.m.

**PRESENT**

Gehrz, Gibson Talbot, Hustad, Jacobs, and Kuettel. Also present were Hoyt and Asleson.

**CONSENT AGENDA APPROVED**

Motion was made by Councilmember Gibson Talbot to approve the following consent agenda. Motion passed unanimously.

1. Disbursements
2. Licenses
3. Schedule of public hearing on delinquent utility payments
4. Request to authorize an agreement for full disclosure services with Springsted Public Finance Advisors

**POLICY AGENDA**

**CONSIDERATION OF RESOLUTION 96-20, AUTHORIZING THE AWARD AND PAYMENT OF \$1,645,000 GENERAL OBLIGATION BONDS, SERIES 1996A**

Bob Thistle, Springsted Public Finance Advisors, presented the eight bids received for the Larpenteur Avenue bond sale and reported that the lowest bid received was from FBS Investment Services, at 5.0304%. The city's A1 credit rating had previously been confirmed by Moody's. Thistle further reported that his firm had reviewed the tax increment projections done by Casserly and Molzahn and had confirmed that the city's Tax Increment funds would cover the costs of this bond issue.

Motion was made by Councilmember Jacobs to approve Resolution 96-20. Motion passed unanimously.

**ADJOURNMENT**

The meeting adjourned to a workshop at 7:12 p.m. At the workshop, the council discussed proposed cooperative use of Community Park, received an update on EMS services, and discussed several request for 1997 donations.

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Susan L. Gehrz, Mayor

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Carla Asleson  
Recording Secretary

CONSENT  
Meeting Date: 11/27/96  
Item: 1

ITEM DESCRIPTION: Disbursements

SUBMITTED BY: Joe Rigdon, City Accountant

REVIEWED BY:

EXPLANATION/SUMMARY:

- a. General disbursements through 11/21/96, \$90,557.69
- b. Payroll, 11/1/96 to 11/15/96, \$11,543.05

ACTION REQUESTED: Approval

9.

APPROVAL OF BILLS  
PERIOD ENDING: 11/27/96

CHECK#	VENDOR NAME	DESCRIPTION	DEPT.	AMOUNT
	ALEX AUDIO & VIDEO SVC.	VCR DIAGNOSTIC	COMMUNIC	25.00
	AMERICAN LINEN SUPPLY CO.	LINEN CLEANING	FIRE FIG	42.76
	AMERICAN OFFICE PRODUCTS	MECH. PENCILS;LABELS;ETC	ADMINIST	117.64
	CHAMPION AUTO STORES	JETTER FUEL FILTER;ETC.	SANITARY	4.13
	CY'S UNIFORMS	FIRE DEPT. BADGES	FIRE FIG	198.41
	EMERGENCY APPARATUS MAINT	RPR THROTTLE CABLE #753	FIRE FIG	242.18
	FALCON HEIGHTS FIRE	MUTUAL AID TRAINING FOOD	FIRE FIG	85.20
	FERRELLOAS	PROPANE FOR DRILL	FIRE FIG	66.76
	F.M. FRATTALONE	1995 ALLEY PAYMENT	-----	1,882.53
	FOCUS NEWS	LEGAL NOTICE	LEGISLAT	17.82
	HOLSTINGTON KOEGLER GROUP	10/96 PLANNING & DESIGN	LARPENTE	3,028.00
	I.D. ENGRAVING COMPANY	I.D. ENGRAVING PLATES	MCAD	105.24
	ICMA RETIREMENT TRUST 457	11/96 CONTRIBUTIONS	ADMINIST	150.00
	ICMA RETIREMENT TRUST 457	11/96 CONTRIBUTIONS	FINANCE	150.00
	*** TOTAL FOR ICMA RETIREMENT TRUS			300.00
	INSTY-PRINTS PLUS	PRKS/PWRKS BUSINESS CRDS	ADMINIST	45.83
	JANKE, KATHLEEN	11/96 CLEANING	FIRE FIG	80.00
	KNOX LUMBER CO.	PLASTIC FOR CONCRETE,ETC	CITY HAL	18.35
	KNOX LUMBER CO.	HOCKEY BOARDS	PARK MAI	103.12
	*** TOTAL FOR KNOX LUMBER CO.			121.47
	KRIEGLER, CAROL	PLAYROOM OPEN HSE SUPPL.	PARK PRO	28.62
	DAVID W. KRIESEL, INC.	11/96 BUILDING INSPECT	PLANNING	550.00
	CITY OF LAUDERDALE	SEWER JETTING ASSISTANCE	SANITARY	762.99
	CITY OF LAUDERDALE	HOCKEY BOARDS ASSISTANCE	PARK MAI	217.88
	*** TOTAL FOR CITY OF LAUDERDALE			980.87
	LEONARD, STREET & DEINARD	LEGAL SVC TO 10/31/96	LEGAL	1,285.30
	LEONARD, STREET & DEINARD	LEGAL SVC TO 10/31/96	LARPENTE	761.50
	*** TOTAL FOR LEONARD, STREET & DE			2,046.80
	LIFE LINK III	RESCUE OUTREACH EDUC.	RESCUE S	72.00
	MCI	LONG DISTANCE TO 11/7/96	CITY HAL	18.09
	MAIER STEWART & ASSOC.	9/29-10/26 ENGINEERING	ENGINEER	513.67



APPROVAL OF BILLS  
 PERIOD ENDING: 11/27/96

CHECK#	VENDOR NAME	DESCRIPTION	DEPT.	AMOUNT
	MAIER STEWART & ASSOC.	9/29-10/26 ENGINEERING	LARPENTE	761.30
	MAIER STEWART & ASSOC.	9/29-10/26 ENGINEERING	LINDIG S	994.86
	*** TOTAL FOR MAIER STEWART & ASSO			2,269.83
	METROPOLITAN COUNCIL	12/96 SEWER SERVICE	SANITARY	37,950.00
	METROPOLITAN COUNCIL,	1700 HOLTON SAC CHARGE	-----	891.00
	<del>32751 MN DEPARTMENT OF REVENUE</del>	<del>STATE WITHHELD 11/15/96</del>	<del>ADMINIST</del>	<del>649.51</del>
	MOSBY	RESCUE TRAINING SOFTWARE	RESCUE S	345.60
	NSP	10/96 STREET LIGHTING	STREET L	2,028.42
	NSP	10/96 ELECTRIC	SANITARY	10.42
	NSP	<del>10/96 ELECTRIC</del>	<del>SANITARY</del>	<del>121.87</del>
	NSP	10/96 GAS & ELECTRIC	PARK MAI	54.93
	*** TOTAL FOR NSP			2,215.64
	OFFICE MAX CREDIT PLAN	ADMIN. SUPPLIES	ADMINIST	70.45
	<del>OXYGEN SERVICE COMPANY</del>	<del>OXYGEN RESCUE</del>	<del>RESCUE S</del>	<del>26.77</del>
	OXYGEN SERVICE COMPANY	10/96 OXYGEN CYLINDERS	RESCUE S	13.50
	OXYGEN SERVICE COMPANY	10/96 OXYGEN CYLINDERS	CITY HAL	9.00
	*** TOTAL FOR OXYGEN SERVICE COMPA			51.27
	PERA	PERA WITHHELD 11/15/96	ADMINIST	1,129.90
	PERA LIFE	PHILLIPS 11/96 PREMIUM	ADMINIST	12.00
	PERA LIFE	BAUMANN 11/96 PREMIUM	FIRE FIG	12.00
	PERA LIFE	IVERSON 11/96 PREMIUM	FIRE PRE	12.00
	*** TOTAL FOR PERA LIFE			36.00
	ST. PAUL RAMSEY	IV, ELECTRODES	RESCUE S	18.80
	RAMSEY CLINIC	MEDICAL CHECK	FIRE FIG	157.00
	RAMSEY COUNTY	ELECTIONS POSTAGE	ELECTION	84.72
	RAMSEY COUNTY	PROM PACK BATTERY	ELECTION	100.00
	RAMSEY COUNTY	<del>12/95 10/96 CITATIONS</del>	<del>POLICE</del>	<del>1,071.00</del>
	*** TOTAL FOR RAMSEY COUNTY			1,255.72
	STATE FIRE MARSHAL DUSH	SMOKE DETECTOR BROCHURES	FIRE PRE	44.00
	TAFF, SUSAN HOYT	11/96 CAR ALLOWANCE	ADMINIST	165.00
	TARGET	OPEN HOUSE SUPPLIES	FIRE FIG	92.15
	J.O. THOMPSON INC.	PUBLIC WORKS FENCE STAIN	CITY HAL	294.63
	TOLL GAS & WELDING SUPPLY	COMPRESSED AIR	FIRE FIG	14.00
	U.S. POSTMASTER	POSTAGE PERMIT	SANITARY	175.00
	AIRTOUCH CELLULAR	10/96 CELLULAR PHONE	RESCUE S	13.43

APPROVAL OF BILLS  
PERIOD ENDING: 11/27/96

CHECK#	VENDOR NAME	DESCRIPTION	DEPT.	AMOUNT
	USWEST COMMUNICATIONS	11/96 PHONE	PARK & R	57.29
	BERNARDY, CONNIE LANNERS	11/30/96 MCAD SERVICES	MCAD	1,543.85
	ST. ANTHONY VILLAGE	11/96 POLICE SERVICES	POLICE	27,209.17
	COLTER-MUNYER, SUSIE	6/96-9/96 AFTER SCHOOL	MCAD	1,531.60
	COLTER-MUNYER, SUSIE	MCAD SPECIAL EVENTS	MCAD	112.95
	*** TOTAL FOR COLTER-MUNYER, SUSIE			1,644.55
	RIGDON, JOE	EMPLOYEE EVENT	LEGISLAT	85.05
	HUGHES & COSTELLO	11/96 PROSECUTION	PROSECUT	2,119.45
	*** TOTAL FOR BANK 01			90,557.69
	*** GRAND TOTAL ***			90,557.69

b.

PERIOD END DATE 11/15/96  
SYSTEM DATE 11/15/96

\*\*FILE NOT UPDATED\*\*

PAGE 1

C H E C K   R E G I S T E R

CHECK TYPE	CHECK DATE	EMPLOYEE NAME	CHECK NUMBER	CHECK AMOUNT
COM	11 15 96	30 NICHOLAS BAUMANN	24755	43.50
COM	11 15 96	31 ROSS BERNDT	24756	14.54
COM	11 15 96	32 RAYMOND BROWN	24757	189.21
COM	11 15 96	34 CLEMENT KURHAJETZ	24758	85.20
COM	11 15 96	35 LEO LINDIG	24759	76.40
COM	11 15 96	40 KEVIN ANDERSON	24760	43.25
COM	11 15 96	42 MICHAEL D. CLARKIN	24761	182.97
COM	11 15 96	45 JAMES D. FULLER	24762	84.27
COM	11 15 96	47 NATHANIEL HEROLD	24763	68.69
COM	11 15 96	48 JOHN H. HOLMGREN	24764	110.47
COM	11 15 96	49 DOUGLAS LEMAY	24765	25.85
COM	11 15 96	50 JOSEPH L. MARTINEZ	24766	104.24
COM	11 15 96	56 GREGORY S. PETERSON	24767	126.85
COM	11 15 96	59 GREGORY M. FULLER	24768	95.56
COM	11 15 96	60 TERRY D. IVERSON	24769	56.92
COM	11 15 96	61 DENNIS G. LEMAY	24770	44.65
COM	11 15 96	63 RACHELLE L. MARVIN	24771	55.00
COM	11 15 96	66 ALFRED HERNANDEZ	24772	28.29
COM	11 15 96	67 BRENT W. KUSKELA	24773	221.73
COM	11 15 96	69 JASON J. HYATT	24774	238.21
COM	11 15 96	70 JUSTIN T. NOVAK	24775	89.70
COM	11 15 96	71 THOMAS R. REITAN	24776	303.17
COM	11 15 96	72 JOHN R. WOLFSBERGER	24777	103.32
COM	11 15 96	1002 SUSAN HOYT TAFF	24778	1486.27
COM	11 15 96	1003 TERRY IVERSON	24779	996.23
COM	11 15 96	1005 CAROL KRIEGLER	24780	765.92
COM	11 15 96	1007 PATRICIA PHILLIPS	24781	789.51
COM	11 15 96	1008 DELORIS SWENSON	24782	775.97
COM	11 15 96	1010 CARLA ASLESON	24783	928.09
COM	11 15 96	1012 JOSEPH M. RIGDON	24784	896.44
COM	11 15 96	1031 LINDA TREEFIN	24785	147.99
COM	11 15 96	1033 DAVE TRETSMEN	24786	754.68
COM	11 15 96	1043 GLADYS A. BROWN	24787	86.63
COM	11 15 96	1045 FLORENCE M. RICHARDS	24788	55.13
COM	11 15 96	1061 ELIZABETH R. SUNDHEIM	24789	86.63
COM	11 15 96	1071 SALLY B. JERNBERG	24790	86.63
COM	11 15 96	1072 DONNA LOU REYNOLDS	24791	84.00
COM	11 15 96	1083 JAMES W. SNOWDEN	24792	83.11
COM	11 15 96	1084 CHRISTINE AMMANN	24793	26.25
COM	11 15 96	1089 KATHLEEN A. CIERNIA	24794	42.00
COM	11 15 96	1093 PEARLE F. GILBERTSON	24795	42.00
COM	11 15 96	1094 KATHLEEN A. BALDWIN	24796	44.63
COM	11 15 96	1095 MARGARET M. BARRETT	24797	44.63
COM	11 15 96	1096 JANE ADAMS DEHLIN	24798	39.38
COM	11 15 96	1097 TAI SHIGAKI	24799	94.93
COM	11 15 96	1098 SUSAN K. SMITH	24800	84.00
COM	11 15 96	1102 AUSTIN M. PETERSON	24801	135.58
COM	11 15 96	1109 DELAINE E. MEYER	24802	49.88
COM	11 15 96	1118 SHAWN M. STRONG	24803	35.04
COM	11 15 96	1123 ABRAHAM T. CYR	24804	24.01
COM	11 15 96	1127 AVELYN HOOKER	24805	55.13
COM	11 15 96	1128 LILA L. STORAASLI	24806	42.00
COM	11 15 96	1129 OLAF K. STORAASLI	24807	43.31
COM	11 15 96	1130 JAYME K. NELSON	24808	60.95



CONSENT  
Meeting Date: 11/27/96  
Item: 2

ITEM DESCRIPTION: Licenses

SUBMITTED BY: Dee Swenson

MUNICIPAL AND LIQUOR LICENSES

Pizza Hut

#3412 Restaurant and on-sale non-intoxicating malt liquor

Ciatti's, Inc.

#3411 Restaurant and Cigarette Sales

#26 On-Sale Liquor

#27 On-Sale Sunday

CHRISTMAS TREE SALES

#3414 Falcon Heights/Lauderdale Lions Club

MECHANICAL

#3413 Seasonal Htg & A/C

CONSENT  
Meeting Date: 11/27/96  
Item: 3

ITEM DESCRIPTION: Fund Transfer

SUBMITTED BY: Joe Rigdon, City Accountant

REVIEWED BY: Susan Hoyt, City Administrator

EXPLANATION/SUMMARY: In order to fund Lindig Street improvements with associated planning and engineering costs during 1997, an operating transfer is needed from the city's infrastructure fund (Fund #419). A Lindig Street Improvements Fund (#426) will be created to account for the proposed improvements. A transfer amount of \$200,000 is necessary to cover expected costs with any residual funds transferred back to the infrastructure fund upon project completion. The infrastructure fund presently has an adequate fund balance of \$478,189 to support this transfer.

ACTION REQUESTED: Approve the fund transfer as detailed.

CONSENT  
Meeting Date: 11/27/96  
Item: 4

**CITY OF FALCON HEIGHTS**  
**REQUEST FOR COUNCIL CONSIDERATION**

**ITEM DESCRIPTION:** Request of use of Community Park shelter and site for Lions Club holiday tree sales

**SUBMITTED BY:** Bob Tomlinson, Christmas tree sales for Falcon Heights/Lauderdale Lions Club

**REVIEWED BY:** Carol Kriegler, Director of Parks, Recreation and Public Facilities

**EXPLANATION:**

The Lions Club is requesting use of the Community Park shelter and some of the grounds to the west of the shelter for its annual holiday tree sale. The Lions Club has used the area in the past and agrees to the attached conditions.

**ATTACHMENT:** Agreement for Lions Club use of Community Park

**ACTION REQUESTED:** Approve the use of Community Park shelter and site for the Lions Club holiday tree sale

LIONS CLUB AGREEMENT FOR COMMUNITY PARK USE

The Falcon Heights/Lauderdale Lions Club is granted permission to use the area north of the free skating rink at the Falcon Heights Community Park for Christmas tree sales from November 16, 1996 through December 23, 1996. The Falcon Heights/Lauderdale Lions Club agrees to the following terms and conditions:

1. The bituminous pathways and concrete walkways shall be used only for the purpose of the initial tree delivery and for pedestrians. Vehicles shall not be allowed on the pathway for the purpose of tree pick-up or parking.
2. Use of the park building shall be limited to use as a warming shelter for Lions Club members and storage.
3. The Lions Club shall vacate the area by December 23 and do so by leaving the property in the same good condition. All remaining trees, associated materials, equipment and signs shall be removed no later than January 15, 1997.
4. Two temporary signs are allowed at the site, provided that they are not posted on the public right-of-way. Off-site directional signs will not be used.
5. A business license will be obtained by the Lions Club.

THE CITY OF FALCON HEIGHTS

LIONS CLUB

By: \_\_\_\_\_

By: \_\_\_\_\_



POLICY  
Date: 11/27/96  
Item: 1

ITEM: An update on the proposed 1997 Lindig Street improvements

SUBMITTED BY: Terry Maurer, City Engineer

REVIEWED BY: Susan Hoyt, City Administrator

**EXPLANATION/DESCRIPTION:**

The city held its first neighborhood meeting with the property owners along Lindig Street to discuss the proposed improvement plans. The minutes and information from this meeting will be mailed to all Lindig Street property owners. Terry Maurer, the city engineer, will discuss the proposed improvements with the council.

Lindig Street has some unique characteristics including:

- constructed in 1963
- 3 homes on the north end have a gravel street
- no stormsewer
- It is a dead end with a private easement for access to garden plots on the north end of Lindig Street

There are two options for improving the street:

1. Keep the existing curb and gutter; replace the surface by milling out the current blacktop and overlaying it with new bituminous; create a stormsewer connection to Tatum Street.
2. Reconstruct the street entirely including replacing the curb and gutter. This option is necessary if the stormsewer connection must go to Larpenteur rather than to Tatum Street.

The staff is recommending the first alternative because it will accomplish the city's goals of maintaining the neighborhood and keep costs down for the city and property owners. The engineer's discussion will focus on the alternatives and related assessments.

**ATTACHMENTS:**

- 1 - Informational meeting handout from 11/20/96
- 2 - List of meeting attendees

**ACTION REQUESTED:**

Hear report from engineer and ask questions.  
Direct the staff on how to proceed.

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**CITY OF FALCON HEIGHTS  
INFORMATIONAL MEETING**

**LINDIG STREET IMPROVEMENTS**

**NOVEMBER 20, 1996**

**Susan Hoyt, City Administrator**

**Terry Maurer, City Engineer**

**Mark Graham, Project Engineer**

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**LINDIG STREET  
INFORMATIONAL MEETING**

**AGENDA**

- 1. INTRODUCTION**
- 2. HISTORY**
- 3. PROJECT DESIGN CONSIDERATIONS**
- 4. ESTIMATED PROJECT COSTS**
- 5. ASSESSMENT POLICY/ESTIMATED ASSESSMENTS**
- 6. PROJECT SCHEDULE**
- 7. QUESTION/ANSWER**

## HISTORY

- **Street Construction** **1963**
  
- **Street Extension at North End** **July 1985**
  
- **5-Year Capital Improvement Plan Updated** **April 1993**
  
- **Feasibility Study Authorized by City Council** **September 11, 1996**
  
- **Public Informational Meeting** **November 20, 1996**

## **DESIGN CONSIDERATIONS**

- 1. Drainage**
- 2. Mill and Overlay Versus Reconstruction**
- 3. Types of Vehicles and Traffic/Strength of Street Section**
- 4. Existing Utilities**
- 5. Cul-de-sac Needs**
- 6. Larpenteur Avenue Reconstruction Coordination**
- 7. Easement Acquisition**

## ESTIMATED PROJECT COSTS

- **Mill and Overlay Lindig Street and Storm Sewer to Tatum Street:**

<b>Street</b>	<b>\$57,400</b>
<b>Storm</b>	<b><u>\$17,600</u></b>
<b>Estimated Construction Cost</b>	<b>\$75,000</b>
<b>Overhead (28%)</b>	<b><u>\$21,000</u></b>
<b>Estimated Project Cost</b>	<b>\$96,000*</b>

\* Does not include costs for easement acquisition.

## CITY ASSESSMENT POLICY

- **City's Assessment Manual adopted June 1991 (1996 Revision Pending).**

- **Bituminous Overlay Assessment Rate**

Bituminous overlays shall be assessed to the abutting property on a lot basis. For 1997, the estimated overlay assessment is \$1,300-\$1,400 per lot.

- **Residential Equivalent Assessment Rate**

All residentially zoned properties with frontage abutting a street which is reconstructed shall be assessed on a front foot basis at the residential equivalent assessment rate. This rate shall apply regardless of the streets classification (local, collector, arterial, trunk highway); designation (County State Aid Highway, Municipal State Aid Street); or jurisdiction (State, County, or City).

The residential equivalent assessment rate shall be based on a portion of the cost of street construction for a typical residential street section. This residential equivalent assessment rate shall be determined by the City Council and established by resolution from time to time based upon comparable project data available to the City.

For 1997, the residential equivalent assessment rate is estimated to be \$26.50/Front Foot.

- **The length of payment periods for assessments is based on the type of improvement. For street reconstruction, the period is 10-15 years. For street resurfacing (overlay), the period is 3-7 years.**

## PROJECT SCHEDULE

<u>Task</u>	<u>Date</u>
▪ Receive Feasibility Study, Order Public Hearing and Order Preparation of Plans & Specifications	December 4, 1996
▪ Hold Public Hearing, Order Project, Approve Plans and Specifications, and Authorize Advertisement of Bids	January 22, 1997
▪ Open Bids	March 20, 1997
▪ Receive Bids and Order Assessment Hearing	March 26, 1997
▪ Hold Assessment Hearing	May 14, 1997
▪ Award Construction Contract	May 14, 1997
▪ Begin Construction	June 1997
▪ End Construction	July 1997



LINDIG ST. IMPROVEMENT MEETING  
 November 20, 1996  
 Falcon Heights City Hall

	<u>Name</u>	<u>Address</u>
1.	CLARK TROGE	1765 LINDIG
2.	Bruce Zimmerman	1745 "
3.	Brenda Zimmerman	1745 "
4.	Marcus Skwers	1741
5.	Ralph Gullickson	1710 "
6.	Irene Mac Gregor	1795 North Fairview.
7.	Steve Oranne	1799 Lindig
8.	Sara Lund	1805 Lindig
9.	Mary Cunningham	1764 Lindig
10.	Bill Cunningham	"
11.	Kevin Busch	1804 LINDIG
12.	Carolyn + Jim Nestingen	1777 Lindig
13.	Frances Kinkelman	1783 Lindig
14.	Wayne Wakefield	1708 "
15.	Dr. McVey	1788 Lindig
16.		
17.		
18.		
19.		
20.		

POLICY

Date: 11/27/96

Item: 2

ITEM: Consideration of a Joint and Cooperative Agreement for the Middle Mississippi River Watershed Management Organization

SUBMITTED BY: The Middle Mississippi River Watershed Management Organization (MMRWMO)  
presentation by Mr. Bill Anderson, City of Minneapolis  
Mr. Tom Frame, City of Minneapolis

REVIEWED BY: Susan Hoyt, City Administrator and Falcon Heights Representative to the MMRWMO

Eric Galatz., attorney for the city

EXPLANATION/DESCRIPTION:

Summary:

- The council is being asked to approve the MMRWMO agreement to continue participation in this WMO.
- The MMRWMO's primary task is to develop a five year Watershed Management Plan to set out any capital projects to accomplish watershed management.
- Since Falcon Heights is a very small portion of the WMO and is on the 'top of the hill', it is unlikely that projects will involve Falcon Heights.
- The operating budget is set at a maximum of \$20,000 a year. Falcon Heights share would be .2% or \$400 if the Commission approves up to the \$20,000 operating budget. The charges are paid from the city's stormsewer fund.
- The WMO has taxing authority as a special taxing district. The agreement makes it possible for individual jurisdictions to tax themselves for projects that benefit the jurisdiction. The city council would be required to approve any taxing done within the city. At this time, it is unlikely that a project would benefit Falcon Heights and, therefore, it is unlikely that a special tax would be necessary.

Background

The city is located in four watersheds. Three of these watersheds are organized through Watershed Management Organizations (WMO's) as required by state statute. Until very recently the MMRWMO was inactive. The City of Minneapolis, which comprises 93.6% of this watershed, is reinvigorating the organization in order to use it as a water management and planning tool.

Falcon Heights is one of seven participating governmental units in the MMRWMO. It makes up .2% of the area. The other units include:

Minneapolis	93.6%
Saint Anthony	3.5%
Saint Paul	1.5%
Minneapolis Park/Recreation Board	.7%
Lauderdale	.4%
Falcon Heights	.2%
University of Minnesota	.1%

Representation.

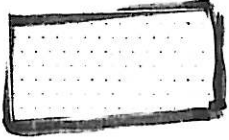
Currently, the city administrator serves as the representative to the MMRWMO. Once the agreement is approved by all parties and the MMRWMO Commission, the council may reappoint the administrator to a two year term or appoint a councilmember with the administrator as the alternate.

**ATTACHMENTS:**

- 1 Map of Falcon Heights portion of MMRWMO
- 2 Joint and Cooperative Agreement
- 3 Resolution approving agreement
- 4 Additional information

**ACTION REQUESTED:**

Introduction by administrator  
Brief presentation by Mr. Bill Anderson  
Questions and Discussion  
Recommend approval of the agreement



MMRWMO  
IN

FALCON HEIGHTS

LARPEN TEUR AVENUE

GOLF COURSE

FULHAM STREET

FOLWELL AVENUE

STREET

VINCENT AVE

NORTHROP

AVE

BURTON ST.

COFFMAN

HUYT AVENUE



NORTH

**ATTACHMENTS 2 AND 4 OF POLICY ITEM 2  
ARE IN MANILLA ENVELOPE**

No. R-96-23

CITY OF FALCON HEIGHTS

**C O U N C I L   R E S O L U T I O N**

Date: 11/27/96

-----  
RESOLUTION AGREEING TO SIGN AND ENTER INTO A JOINT AND COOPERATIVE  
POWERS AGREEMENT CREATING THE MIDDLE MISSISSIPPI RIVER WATERSHED  
MANAGEMENT ORGANIZATION

WHEREAS, the City of Falcon Heights is committed to the stewardship  
of our surface and groundwater resources; and

WHEREAS, the City of Falcon Heights believes the wise management of  
our water resources requires that water be viewed from a watershed perspective; and

WHEREAS, the City of Falcon Heights recognizes the need to cooperate  
with neighboring jurisdictions to effectively manage our water resources,

NOW THEREFORE, BE IT RESOLVED, that the City of Falcon Heights  
does hereby agree to sign and enter into the Joint and Cooperative Powers Agreement  
creating the Middle Mississippi River Watershed Management Organization.

-----  
Moved by: \_\_\_\_\_

GEHRZ            In Favor  
GIBSON TALBOT  
HUSTAD           Against  
JACOBS  
KUETTEL

Approved by: \_\_\_\_\_

Mayor  
November 27, 1996  
Date

Attested by: \_\_\_\_\_

City Clerk  
November 27, 1996  
Date

Policy  
Date: 11/27/96  
Item: 3

ITEM: Public hearing and consideration of a proposed amendment to Chapter 9 Part 2.07 of the zoning code related to placement of telecommunications antennas

SUBMITTED BY: The Planning Commission  
Susan Hoyt, City Administrator

REVIEWED BY: Ellen Sampson, City Attorney

#### EXPLANATION/DESCRIPTION

#### PLANNING COMMISSION RECOMMENDATION AND SUMMARY

- After discussion and a public hearing, the planning commission recommends adoption of the proposed ordinance regulating the location of telecommunications towers and antennas.
- The proposed ordinance is designed to bring the city into compliance with recent Federal Communications Commissions rules on communications and to end the city's moratorium on placement of these devices.
- In sum, the ordinance provides for:
  - no free-standing towers
  - private antennas may be located in all locations as required by the FCC; if over ten feet high must get a conditional use permit; cannot exceed 20 feet in height
  - commercial antennas may be located on the city hall roof if certain conditions are met and a lease is signed; it is anticipated most commercial antenna sites will be sought out on the adjacent water towers, tall buildings and receiving towers located on the University of Minnesota property and the Minnesota State Fair

Supports: Goal 1: protecting the public health and safety and Goal 2: maintaining the quality of the city's neighborhoods.

#### PURPOSE

Due to recent changes in Federal Communications Commission (FCC) rules on communications, cities are studying where to place communications antennas and towers to be able to accommodate the needs of residents and businesses while protecting the public health, safety and general welfare of the community.

The city wants to:

- facilitate the provision of wireless telecommunication services to residents and businesses within the city;
- minimize adverse visual effects of towers and antennas;
- avoid potential damage to adjacent properties;
- maximize the use of existing towers and buildings to accommodate new wireless telecommunications antennas in order to reduce the number of towers and antennas serving the community.

## **BACKGROUND**

Moratorium. In June, 1996 the city enacted a moratorium on communications antennas and towers due to the tremendous number of inquiries from commercial telecommunications businesses about where they could locate antennas within the city. These businesses are aggressively seeking out locations on public facilities, typically water towers, where they can locate antennas high enough to avoid interference from other activities. These requests are considered "commercial towers and antennas". The moratorium expires on December 31, 1996.

Locations in Falcon Heights. In Falcon Heights, the staff directs these communication inquiries to the St. Paul Water Utility and the U of M because the companies are looking for water tower locations. The St. Paul Water Utility owns a water tower on the State Fair property and also at Dudley just off of Cleveland Avenue on the southern border of the city. The St. Paul Water Utility will consider leasing space to these communications companies. In addition to these water towers, the University of Minnesota is located on high ground, has the tallest water tower and also several tall buildings on the St. Paul (Falcon Heights) campus.

## **UPDATE OF ORDINANCE**

Draft ordinance. Despite the fact that most communications companies will want to locate antennas on existing water towers outside the city's land use jurisdiction, it is timely to update the city's ordinance. It is also important to keep it simple. Information from the City of Vadnais Heights, the City of Bloomington and the League of Minnesota Cities was used to prepare the draft ordinance.

The draft ordinance reflects the following criteria:



1. **All antennas must be located on a man-made structure, cannot be free-standing and cannot exceed 20 feet in height.**
  - maximum height of 20 feet above a principal or accessory structure (the structure must not be constructed for the purpose of supporting the antenna)
  - no free-standing towers or antennas
  - subject to aesthetic requirements regarding color, no signs and no lighting

2. **Private antennas over 10 feet in height are a conditional use in any zoning district.**

- requires a conditional use permit for over 10 feet in height above a structure. (Maximum height is 20 feet above a structure)
- recognizes that the FCC requires cities to allow private communications antennas for amateur radio in every district

This means that if *technically* necessary the conditional use permit can allow a taller antenna or a free-standing antenna or tower for amateur radio transmissions. If found technically necessary, these facilities must be setback in the rear yard - one foot from each property line for every one foot of antenna or tower. (Most cities require a two or four foot setback to one foot of tower but this would make it impossible to accommodate this unique request in almost all yards in Falcon Heights.)

From experience, there are very few inquiries about personal amateur radio towers and antennas. (We've had one inquiry in the past seven years.) The changes in communications through the internet and satellite dish antennas probably reduces the likelihood that these antennas will become popular. Nevertheless, the ordinance should address the possibility.

3. **Satellite dish antennas are not subject to zoning.**

- Recognizes the likelihood that the FCC ruling would not permit cities' to regulate the location of satellite dish antennas.
- Technology has made these satellite dish antennas very small so the relation of location is less critical than ten years ago.

4. **Commercial antennas must be located on the U of M water tower or the U of M or State Fair public buildings or on the St. Paul Water Utility towers if approved by these authorities. There is one possible location proposed on the city hall (if technically feasible).**

The ordinance:

- does not permit commercial antennas in areas zoned public, residential or commercial because of the city's land use density. Having antennas on top of commercial buildings or park buildings would add to the visual congestion of the area. Also, all commercial buildings are immediately adjacent to residential areas. Antennas are not perceived as an asset adjacent to a residential area unless much larger setbacks can be accomplished than the available land in Falcon Heights permits. Cities with must larger parks, open space and industrial areas have more flexibility in locating antennas and towers. Again, however, these cities typically use their water towers and the vacant property adjacent to these water towers to locate these, whenever possible.
- recognizes the FCC ruling that cities must allow antennas to be placed somewhere by stating that locations on the water towers and public buildings outside the city's land use control (St. Paul Water Utility, U of M) are possible locations. This reference to the other institutions in the city's code may be unnecessary except that it will be a convenient reference for staff in the future when questions arise.

The draft ordinance permits the location of communication antennas on the city hall. There are some antennas there now. Several criteria must be met prior to this being permitted. It is not known whether this location would meet the commercial communications requirements, but it may be the only logical place that might be available that the city has land use jurisdiction over. A lease would be part of the arrangement.

#### **ATTACHMENTS:**

1. Draft ordinance
2. Telecommunications Act related to zoning put out by the National League of Cities
3. Resolution 96-21 stating findings of fact with respect to approving ordinance
4. Ordinance 96-08
5. Resolution 96-22 publishing a summary of ordinance

#### **ACTION REQUESTED:**

1. Staff report on the draft ordinance.
2. Motion to adopt Resolutions 96-21 and 96-22 and Ordinance 96-08

11/19/96

9 - 2.07                    Heights Limitations.

(Delete Subdivision 1. a. (3) and (4) of existing code and replace with Subdivision 2)

Subdivision 2.            Telecommunication Antennas

- a.    Tower height. Tower height includes the height of the tower from grade to peak including all antennas and other attachments. If the tower is located on a structure, the tower height is from base to peak including all antennas and other attachments.
  
- b.    Antenna height. Antenna height includes the height of the antenna from the base of the antenna to the peak and all other attachments.
  
- c.    Private antennas.
  - 1)    Private antennas 10 feet or less are a permitted use.
  
  - 2)    Private antennas over 10 feet but no more than 20 feet in height above a man-made structure, where the man-made structure exists as a principal or a permitted accessory use on the property, shall be a conditional use in all districts.
    - a)    The setback for the antenna must be one foot/per foot of antenna from all property lines.
  
  - 3)    In accordance with the Federal Communications Commission preemptive ruling PRB1,
    - a)    a private antenna may exceed 20 feet in height above a man-made structure for the purpose of supporting amateur radio provided that a determination is made by the city council as part of the conditional use permit that the additional antenna height is technically necessary to successfully engage in amateur radio communications;
  
    - b)    a free-standing tower or a free-standing antenna not to exceed 50 feet from grade to peak may be constructed for the purpose of supporting amateur radio provided that a determination is made by the city council as part of its conditional use permit that a freestanding tower and/or

antenna is technically necessary to successfully engage in amateur radio communications.

- (1) A free-standing tower or antenna must be located in the rear yard and be set back one foot from the side and rear property lines for each foot of tower and/or antenna.

d. Commercial antennas. Commercial receiving or transmitting antennas shall be prohibited in properties zoned residential, commercial or public except

- 1) when located on existing water towers and public structures within the city limits, but outside the city's land use jurisdiction, as approved by the public institutional property owners controlling these water towers and public structures;
- 2)) when located on city hall with a maximum antenna height of 20 feet under a negotiated lease whenever such placement is technically feasible pending the following minimal conditions:
  - (a) The antennas will not interfere with the purpose for which the city owned property is intended;
  - (b) The antennas or tower have no adverse impact on surrounding private property;
  - (c) The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public facilities and other necessary provisions and safeguards. The fees shall be established by the city council;
  - (d) The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the antennas' or towers' removal.
  - (e) The antennas or tower will not interfere with other users of a higher priority including law enforcement, fire, ambulance and other governmental agencies.
  - (f) Upon reasonable notice, the antennas or towers may be required to be removed at the owner's expense.
  - (g) The applicant must reimburse the city for any costs which it incurs because of the presence of the applicant's antennas or towers.

- e. Antennas - Aesthetics. All antennas and towers upon which antennas are placed shall be designed and situated so as to be as visually unobtrusive as possible, screened when appropriate, utilizing a city approved color and containing no signs, logos or lighting, except those required by state or federal regulation. Free standing antennas and towers (built upon the ground as opposed to placement on the roof of an existing building) are found to be an aesthetic blight and are prohibited.
- f. License required. The applicant shall present documentation of the possession of any required license by local, state or federal agencies.
- g. Nonconforming Uses. Existing transmitting and receiving facilities at the time of the adoption of this section may remain in service. However, at such time as any material change is made in the facilities, full compliance with this section shall be required. No transmitting or receiving antennas or towers may be added to existing nonconforming facilities.
- h. Building Permit. A building permit shall be required for the construction of new antennas and towers upon which antennas will be placed and shall include wind loading and strength and footing calculations prepared by a Minnesota registered engineer, whenever deemed necessary by the city engineer.
- i. Private satellite dish antennas. Private satellite dish antennas are not subject to this subdivision.

*Draft 11/19/96*

ADD TO DEFINITIONS SECTION OF CITY CODE

Antenna. Equipment used for transmitting or receiving telecommunication, television or radio signals, which is located on the exterior of, or attached to any building or structure, but not including "satellite dish antennas".

Antenna - Commercial. Any pole, spire or structure, or any combination, to which an antenna is, or could be attached, or which is designed for an antenna to be attached, and all supporting lines, cables, wires and braces erected for the commercial use of information.

Tower site. A location(s) on which is or may be located one or more telecommunication radio or television antennas available for connection and use by any person, firm or corporation.

Antenna - satellite dish. A parabolic shaped antenna (including all supporting apparatus) used for receiving televisions signals, which is located on the ground or exterior of, or outside of, any building or structure.



## CHAPTER SEVEN

### Impact of the Act on Local Zoning Power

The Act generally preserves local zoning authority over wireless telecommunications facilities (such as cellular towers) as long as zoning requirements are nondiscriminatory, do not have the effect of prohibiting service, and are not based on the health effects of radio frequency emissions. Zoning decisions must, however, be made within a reasonable time, be based on evidence, and be in writing. By August 1996, the FCC will complete a proceeding that could affect local zoning authority over rooftop television antennas and satellite dishes. Interested communities should participate in that FCC proceeding.

In the past several years, a host of new wireless communications technologies have been developed. Telecommunications services include paging service, cellular telephone service, and personal communications services ("PCS"). Television service delivery includes direct broadcast satellite ("DBS").

What all of these new wireless technologies have in common is that, to varying degrees, they require either the construction of transmitting equipment (placed on towers) or receiving equipment (such as satellite dishes), or both. As a result, if left unchecked, the growth of these services could result in the sprouting of new radio towers and receivers all over a municipality's landscape — far more than exist under older technologies such as radio telephone service and television broadcast service. Most of these new facilities will be sited in developed areas — such as cities and suburbs — where the potential residential and business customers of these new services are located.

*According to a recent article in the Washington Post, the number of cellular antennas could grow by more than 50 times — from 15,000 to 775,000 — by the end of the decade.*

Local governments have long exercised zoning authority over development to ensure that the appearance and integrity of neighborhoods are not marred by the cluttering of unsightly facilities or the intrusion of commercial facilities into residential areas. Like warehouses and smokestacks, placement and location of antenna towers and satellite dishes present zoning issues.

The Act contains language specifically protecting local zoning authority to a significant degree. However, at the same time, the Act does place some new federal requirements on local zoning authority over wireless telecommunications facilities, and it leaves the door open for the FCC to consider adopting rules that could limit local zoning authority over DBS receiving dishes and television antennas.

#### Local Zoning Authority over Wireless Telecommunications Facilities

The Act addresses the issue of local zoning authority over wireless telecommunications facilities in three steps. It (1) establishes a general principle that local zoning authority is preserved, subject to certain conditions; (2) lists the conditions that local zoning requirements must satisfy; and (3) identifies which disputes will be handled by the courts and which will be handled by the FCC.

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## The Telecommunications Act of 1996: What It Means to Local Governments

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### General Principle: Local Zoning Authority Preserved

The Act makes clear that as long as local zoning requirements satisfy certain conditions, nothing in the entire Communications Act of 1934 will limit or affect zoning authority of local governments over the placement, construction, and modification of wireless telecommunications facilities. This principle is important because over the years, the FCC has attempted to exercise its general authority over wireless transmissions under the Communications Act of 1934 to limit or preempt local zoning authority. Until now, the 1934 Act contained no explicit limit on the FCC's authority over zoning. With this new principle, local governments for the first time will have a statutory basis in the Act to defend themselves against unwarranted federal intrusion into local zoning.

### Conditions to Local Zoning Requirements

In order to take advantage of the Act's general principle of preserving local zoning authority, local government zoning decisions about wireless telecommunications facilities must satisfy five conditions. Those conditions are:

#### **1. Local zoning requirements may not unreasonably discriminate among wireless telecommunications providers that compete against one another.**

The legislative history makes clear that local governments do not necessarily have to treat competitive providers exactly the same if their proposed facilities present different zoning concerns. Congress intended to give local governments some flexibility in this area. It recognized, for example, that a proposed 50-foot tower in a residential district presents different concerns than a 50-foot tower in a commercial district, even if the two towers are going to offer services that compete with one another.

#### **2. Local zoning requirements may not prohibit or have the effect of prohibiting the provision of wireless telecommunications service.**

This is intended to prevent local governments from imposing outright bans on wireless telecommunications facilities. It probably also prohibits moratoriums on accepting applications, at least any moratorium that is of indefinite length. At the same time, local governments should have the ability to limit the number and placement of facilities as long as those limits do not have the effect of

precluding a wireless telecommunications provider's ability to offer service.

#### **3. A local government must act on a request for permission to place or construct wireless telecommunications facilities within a reasonable period of time.**

The time taken to act on an application will be considered reasonable as long as it is no longer than the time the local government usually takes to act on the other requests (say, for zoning variances) of comparable magnitude that have nothing to do with telecommunications facilities. And Congress emphasized that the Act does not require local governments to give preferential treatment to zoning requests involving telecommunications facilities — such requests can wait their turn. As long as the request is not moved down the list, it does not have to be moved up the list.

#### **4. Any city council or zoning board decision denying a request for permission to install or construct wireless telecommunications facilities must be in writing and must be based on evidence in a written record before the council or board.**

This requirement may necessitate a considerable change in practice for some city councils and zoning boards. It means that proceedings on a zoning application will need to be reduced to writing. This can be done by having the proceedings transcribed and by requiring the applicant, the city staff and any interested members of the public to reduce their comments and arguments into written submissions to the council or board. This requirement also means that city staff will need to make sure that any facts or arguments on which the council or board may rely on in denying a request are in fact included in the transcribed hearing or written filings submitted to the council or board before its decision is made. That decision also must be in writing and contain reasons that are consistent with the Act's requirements. Municipalities should carefully consult with their city attorneys to implement this requirement.



5. As long as wireless telecommunications facilities meet standards to be set by the FCC, a local government may not base any decision denying a request to construct such facilities on the ground that radio frequency emissions from the facilities will be harmful to the environment or health of residents.

The Act gives the FCC, not local governments, the sole authority to determine what standards wireless facilities must meet to ensure that their radio frequency emissions do not harm humans or the environment. While local governments can require the facilities to comply with FCC emission standards, local governments may not adopt their own standards. This means that, as long as the facilities meet FCC emission standards, concerns about the effects of emissions from radio towers on the health of nearby residents is not a permissible reason for making zoning decisions about the placement of wireless telecommunications facilities.

*The Act requires the FCC to adopt standards by August 1996 concerning radio frequency emissions from wireless telecommunications facilities. If your municipality is concerned about the health effects of such emissions on residents, then your community should consider filing comments to the FCC's rulemaking.*

### Who Resolves Disputes Between Municipalities and Wireless Telecommunications Providers?

In a major victory for municipalities, the Act requires that a wireless telecommunications provider claiming that a city has violated any of four out of five conditions listed above must seek relief in a state or federal court, not at the FCC. The disappointed applicant may go to the FCC only if it claims that the municipality improperly based its decision on the harmful effects of radio frequency emissions from the proposed facilities. The FCC is also prevented from preempting local zoning requirements except for those relating to radio frequency emissions. Consistent with this restriction, the Act also requires the FCC to discontinue its pending rulemaking proceeding concerning preemption of local zoning requirements for cellular towers.

### Zoning Issues Relating to DBS and Television Broadcast Facilities

The Act contains no comparable local zoning provisions dealing with the other type of communications facilities that might appear on your city's landscape (e.g., television broadcast antennas and satellite television dishes). This will probably seem odd to most cities, since television antennas and dishes may present precisely the same types of zoning concerns as wireless telecommunications facilities — they can affect neighborhood appearance and integrity. After all, zoning requirements tend to be directed at the physical size and appearance of facilities, not the particular services they are used to provide.

The Act does, however, contain two provisions that both the television broadcast and DBS industries are likely to try to use to restrict municipal zoning authority over television antennas and dishes.

The first provision gives the FCC exclusive jurisdiction over "direct-to-home satellite services" — in other words, DBS service. This essentially gives the FCC the same broad authority over DBS service that it has long had over television broadcast service. This may strengthen the FCC's hand in adopting rules concerning limitations on local zoning authority over satellite dishes.

The second provision may be a bit more of an explicit threat to local governments. This provision requires the FCC — by August 1996 — to adopt rules that prohibit "restrictions" that impair a viewer's ability to receive television programming from over-the-air local television broadcast stations, DBS services, or "multichannel multipoint distribution services" ("MMDS").

The Act does not say what types of "restrictions" the FCC is supposed to prohibit. You should assume, however, that the broadcast and DBS industries will argue to the FCC that local zoning requirements concerning rooftop antennas and backyard satellite dishes are "restrictions" that the FCC should limit or prohibit.

*The FCC has issued a decision in its rulemaking proposing to limit local zoning authority over satellite dishes. Municipalities that are concerned about such limitations should consider asking the FCC to reconsider its decision.*

### Things to Think About

- Do your zoning ordinances and regulations deal with communications antennas and towers at all? If so, do they address those facilities separately, or as part of general zoning requirements that are applied to other facilities and structures as well?
- Have you adopted any zoning ordinances or variances or made any zoning decisions concerning communications towers or antennas? If so, what did those ordinances or decisions say?
- Do you have a strategy for revising your zoning ordinance, code or process to comply with the new Act?
- Have you considered how you will develop a written record to justify your zoning actions concerning towers and antennas under the new Act? Will you need to change the process you have used in the past? Will you need to consider using experts who could provide testimony or rebut evidence submitted by the industry applicant seeking to erect a new tower or antenna?
- Are your zoning decisions issued in writing, giving detailed reasons for the result? If not, have you considered revising the process?
- Have you imposed a moratorium on zoning requests for communications towers or antennas? If so, do you have a plan for ending the moratorium and putting rules in place consistent with the new Act?
- Do you place any restrictions on placement of rooftop antennas or satellite dishes or backyard satellite dishes? Are your residents concerned about such structures? If so, should your city participate in the upcoming FCC proceedings relating to these topics? Have you informed your Senator and member of Congress of your city's concerns?

No. 96-21  
Date: 11/27/96

**CITY OF FALCON HEIGHTS**  
**CITY COUNCIL RESOLUTION**

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**RESOLUTION FOR PROVISION PERTAINING TO TOWERS**

WHEREAS, in order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the city council finds that these regulations are necessary to:

1. facilitate the provision of wireless telecommunication services to the residents and businesses of the City;
2. minimize adverse visual effects of towers through careful design and siting standards;
3. maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

NOW THEREFORE, BE IT RESOLVED that the Falcon Heights City Council adopts ordinance 96.08, amending Chapter 9,2.07 §2.

Adopted this 27th day of November, 1996.

CITY OF FALCON HEIGHTS

ORDINANCE

Date November 27, 1996

-----  
AN ORDINANCE AMENDING CHAPTER 9 OF THE CITY CODE RELATED TO HEIGHT LIMITATIONS AND TELECOMMUNICATIONS ANTENNAS

The City Council of the City of Falcon Heights does hereby ordain:

Section 1. Chapter 9-2.07 is hereby amended to read as follows:

9-2.07 Height Limitations

Subdivision 1. Height Limitations

Any structural height that exceeds the zoning code must have a conditional use permit.

a. Exempt:

- 1. Height limitations shall not apply to belfries, cupolas and domes, monuments, public and public utility facilities, silos, barns, church spires, chimneys, smokestacks, flag poles, and parapet walls extending not more than four feet above the limiting height of the building.
- 2. Height limitations shall not apply to roof top structures such as mechanical equipment, elevator shaft and equipment enclosures and similar structures, provided said exceptions do not exceed ten (10) feet in height above the roof line and the area does not exceed fifteen percent (15%) of the roof area.

~~3. Height limitations shall not apply to private T.V. or radio reception antennae extending more than ten (10) feet above the limiting height of the building except if any portion of the structure exceeds four (4) feet in diameter and is more than twenty percent (20%) opaque, a conditional use permit shall be required. Any T.V. or radio transmission or reception device or structure not attached to the principal building shall require a conditional use permit.~~

~~4. Hand held telephone, two way radio or similar devices not requiring an exterior reception or receiving antennae are permitted if operated so as not to be visible from outside a principal building nor producing any electrical or other affect upon adjacent or nearby properties.~~

b. Airport:

In all cases, however, no structure shall violate the limits and provisions of the Airport Plan of the Metropolitan Development Guide.

Subdivision 2. Telecommunication Antennas

a. Tower height. Tower height includes the height of the tower from grade to peak including all antennas and other attachments. If the tower is located on a structure, the tower height is from base to peak including all antennas and other attachments.

b. Antenna height. Antenna height includes the height of the antenna from the base of the antenna to the peak and all other attachments.

c. Private antennas.

1) Private antennas 10 feet or less are a permitted use.

2) Private antennas over 10 feet but no more than 20 feet in height above a man-made structure, where the man-made structure exists as a principal or a permitted accessory use on the property, shall be a conditional use in all districts.

a) The setback for the antenna must be one foot/per foot of antenna from all property lines.

3) In accordance with the Federal Communications Commission preemptive ruling PRB1,

a) a private antenna may exceed 20 feet in height above a man-made structure for the purpose of supporting amateur radio provided that a determination is made by the city council as part of the conditional use permit that the additional antenna height is technically necessary to successfully engage in amateur radio communications;

b) a free-standing tower or a free-standing antenna not to exceed 50 feet from grade to peak may be constructed for the purpose of supporting amateur radio provided that a determination is made by the city council as part of its conditional use permit that a freestanding tower and/or antenna is technically necessary to successfully engage in amateur radio communications.

(1) A free-standing tower or antenna must be located in the rear yard and be set back one foot from the side and rear property lines for each foot of tower and/or antenna.

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d. Commercial antennas. Commercial receiving or transmitting antennas shall be prohibited in properties zoned residential, commercial or public except:

1) when located on existing water towers and public structures within the city limits, but outside the city's land use jurisdiction, as approved by the public institutional property owners controlling these water towers and public structures;

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2) when located on city hall with a maximum antenna height of 20 feet under a negotiated lease whenever such placement is technically feasible pending the following minimal conditions:

(a) The antennas will not interfere with the purpose for which the city owned property is intended;

(b) The antennas or tower have no adverse impact on surrounding private property;

(c) The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public facilities and other necessary provisions and safeguards. The fees shall be established by the city council;

(d) The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the antennas' or towers' removal.

(e) The antennas or tower will not interfere with other users of a higher priority including law enforcement, fire, ambulance, and other governmental agencies.

(f) Upon reasonable notice, the antennas or towers may be required to be removed at the owner's expense.

(g) The applicant must reimburse the city for any costs which it incurs because of the presence of the applicant's antennas or towers.

- e. Antennas - Aesthetics. All antennas and towers upon which antennas are placed shall be designed and situated so as to be as visually unobtrusive as possible, screened when appropriate, utilizing a city approved color and containing no signs, logos or lighting, except as may be required by any state or federal regulation. Free standing antennas and towers (built upon the ground as opposed to placement on the roof of an existing building) are found to be an aesthetic blight and are prohibited.
- f. License required. The applicant shall present documentation of the possession of any required license by local, state or federal agencies.
- g. Nonconforming Uses. Existing transmitting and receiving facilities at the time of the adoption of this section may remain in service. However, at such time as any material change is made in the facilities, full compliance with this section shall be required. No transmitting or receiving antennas or towers may be added to existing nonconforming facilities.
- h. Building Permit. A building permit shall be required for the construction of new antennas and towers upon which antennas will be placed and shall include wind loading and strength and footing calculations prepared by a Minnesota registered engineer, whenever deemed necessary by the city engineer.
- i. Private satellite dish antennas. Private satellite dish antennas are not subject to this subdivision.
- j. Hand-held telephone, two-way radio or similar devices. Hand-held telephone, two way radio or similar devices not requiring an exterior reception or receiving antennae are permitted if operated so as not to be visible from outside a principal building nor producing any electrical or other affect upon adjacent or nearby properties.

Section 2. Chapter 9-1.02 subd. 2 is hereby amended to add the following definitions:

Antenna. Equipment used for transmitting or receiving telecommunication, television or radio signals, which is located on the exterior of, or attached to any building or structure, but not including "satellite dish antennas".

Antenna - Commercial. Any pole, spire or structure, or any combination, to which an antenna is, or could be attached, or which is designed for an antenna to be attached, and all supporting lines, cables, wires and braces erected for the commercial use of information.

Tower site. A location(s) on which is or may be located one or more telecommunication radio or television antennas available for connection and use by any person, firm or corporation.

Antenna - satellite dish. A parabolic shaped antenna (including all supporting apparatus) used for receiving televisions signals, which is located on the ground or exterior of, or outside of, any building or structure.

Section 3. This ordinance, passed the 27th day of November, 1996, shall become effective upon publication of a summary resolution.

Moved by: \_\_\_\_\_

GEHRZ \_\_\_ In Favor  
GIBSON TALBOT  
HUSTAD \_\_\_ Against  
JACOBS  
KUETTEL

Approved by: \_\_\_\_\_

Mayor  
November 27, 1996  
Date

Attested by: \_\_\_\_\_

City Clerk  
November 27, 1996  
Date



CITY OF FALCON HEIGHTS  
COUNCIL RESOLUTION

Date: November 27, 1996

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A RESOLUTION AUTHORIZING PUBLICATION OF A SUMMARY OF ORDINANCE 96-08

WHEREAS, Ordinance No. 96-08 is entitled "An ordinance amending Chapter 9 of the city code related to height limitations and telecommunication antennas" and contains several pages of text; and

WHEREAS, the contents of said ordinance can be summarized as follows:

Adds a section to Chapter 9-2.07, which addresses telecommunications antennas. This section describes the permitted locations, height, setbacks, and aesthetic standards for private and commercial antennas.

Adds the following definitions to Chapter 9-1.02 subd. 2: antenna, antenna-commercial, tower site, and antenna-satellite dish.

WHEREAS, Minnesota Statutes Section 412.191 authorizes publication of ordinance summaries in lieu of publication of the entire text of ordinances under certain circumstances.

NOW, THEREFORE, BE IT RESOLVED by the city council of the City of Falcon Heights, Minnesota that:

1. Publication of this resolution, which includes a summary of Ordinance 96-08 will clearly inform the public of the intent and effect of the ordinance
2. A copy of this resolution shall be published in lieu of publishing a copy of Ordinance 96-08 in its entirety.
3. A copy of the complete ordinance shall be available for public inspection in the office of the city.

Moved by: \_\_\_\_\_

GEHRZ    \_\_\_ In Favor  
GIBSON TALBOT  
HUSTAD   \_\_\_ Against  
JACOBS  
KUETTEL

Approved by: \_\_\_\_\_

Mayor  
November 27, 1996  
Date

Attested by: \_\_\_\_\_

City Clerk  
November 27, 1996  
Date